

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRANCESCA VIOLA,)	
)	
Plaintiff)	
)	
v.)	CIVIL ACTION
)	NO. 1:21-CV-10426-LTS
JOSHUA BENTON and PRESIDENT AND)	
FELLOWS OF HARVARD COLLEGE,)	
)	
Defendants.)	
)	

JOINT STATUS REPORT

Pursuant to the Court's Order of March 12, 2021, the parties respectfully submit this joint status report stating their positions as to a schedule for this matter and identifying unresolved motions.

I. Unresolved Motions

This case was entered on the docket on March 11, 2021 after an order from the United States District Court for Eastern District of Pennsylvania granting defendants' motion to dismiss on personal jurisdiction grounds and transferring the case to the District of Massachusetts.

The Pennsylvania District Court's order granting defendants' motion to dismiss on personal jurisdiction grounds did not address the motion to dismiss filed by the defendants under Fed. R. Civ. P. 12(b)(6). The parties have conferred and put forth separate proposals concerning how the Court should address this unresolved motion. These separate positions are stated below:

A. Plaintiff's Position

Plaintiff's position is that the Court should rule on the outstanding 12(b)(6) motion to dismiss as filed. Plaintiff asserts that Defendants' proposal of completely rewriting the comprehensively drafted briefing by the parties is unnecessary for the Court to decide the issues before it. It is also prejudicial since Plaintiff expended considerable time and resources opposing the motion to dismiss and the reply Defendant President and Fellows of Harvard College was given leave to file. Allowing Defendants to re-brief the previously filed motion unfairly grants Defendants a third attempt to make the exact same arguments already clearly delineated. If Defendants wish to raise new arguments that arise from the change in venue, Plaintiff does not oppose a supplemental briefing on these issues per the briefing schedule set forth by Defendants below. Plaintiff has no new or supplemental issues that she wishes to raise at this time. For the reasons stated above, Plaintiff requests that the Court rule on the motion as filed, and requests leave of the Court for an exception to the page limits for supporting memoranda designated in L.R. 7.1(b)(4).

B. Defendants' Proposal

Defendants propose filing new briefs on the motion to dismiss for the following reasons:

1. The briefs now on file with the Court as a result of the transfer from the Eastern District of Pennsylvania address both the personal jurisdiction arguments ruled on by the Pennsylvania District Court and the Rule 12(b)(6) arguments that remain to be decided by this Court.

2. The parties' briefs on those combined issues are approximately 96 pages in length. Rather than filing additional supplemental briefs—which would add to the pages of briefing already before the Court—defendants propose that the parties file

revised Rule 12(b)(6) memoranda of law in compliance with the Local Rules of this District.

3. Defendants propose the following briefing schedule: (a) defendants' motion papers will be filed on or before April 19, 2021; (b) plaintiff's opposition papers will be filed on or before May 19, 2021; and (c) defendants' reply brief (if any) shall be filed by May 28, 2021.

II. Case Schedule

Those parties who are not yet represented by Massachusetts counsel are in the process of engaging such counsel or arranging for motions for admission pro hac vice pursuant to L.R. 83.5.3 now.

The parties propose that, in the event the defendants' motion to dismiss is denied in whole or in part, no later than 20 days after the Court's ruling, they shall file a Joint Statement in accordance with Local Rule 16.1 including, among other things, a joint discovery plan scheduling the time and length for all discovery events, a proposed schedule for the filing of motions, the certifications required by L.R. 16.1 (d)(3).

**PRESIDENT AND FELLOWS OF HARVARD
COLLEGE**

By their attorneys,

/s/ Jonathan M. Albano

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March 19, 2021

CERTIFICATE OF SERVICE

I, Jonathan M. Albano, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 19, 2021.

/s/Jonathan M. Albano

Jonathan M. Albano